

AMENDED IN SENATE AUGUST 13, 2014

AMENDED IN ASSEMBLY APRIL 9, 2014

AMENDED IN ASSEMBLY MARCH 10, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1673

Introduced by Assembly Member Garcia
(Coauthors: Senators Lara and Padilla)

February 12, 2014

An act to amend Section 82015 of the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL’S DIGEST

AB 1673, as amended, Garcia. Political Reform Act of 1974: contributions.

Existing law, the Political Reform Act of 1974, provides for the comprehensive regulation of campaign financing, including requiring the reporting of campaign contributions and expenditures and imposing other reporting and recordkeeping requirements on campaign committees. “Contribution” is defined for purposes of the act as a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for political purposes. The definition does not include a payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant’s home or office if the costs for the meeting or fundraising event are \$500 or less.

~~This bill would revise the definition of “contribution” to exclude a lobbyist, lobbying firm, or lobbyist employer from the exemption authorizing a payment of \$500 or less by the occupant of a home or office for costs related to a meeting or fundraising event at the home or office, thereby making those payments by a lobbyist, lobbying firm, or lobbyist employer a contribution for purposes of the act.~~

The act prohibits a lobbyist from making, and an elected state officer or candidate for elective state office from accepting, a contribution if the lobbyist is registered to lobby the governmental agency for which the candidate is seeking election or the governmental agency of the elected state officer.

This bill would revise the definition of “contribution” to include a payment made by a lobbyist or a cohabitant of a lobbyist for costs related to a fundraising event held at the home of the lobbyist, as specified. The bill would make these payments attributable to the lobbyist for purposes of the prohibition against a lobbyist making a contribution to specified candidates and elected officers.

The bill would also revise the definition of “contribution” to include a payment made by a lobbying firm for costs related to a fundraising event held at the office of the lobbying firm.

A violation of the act’s provisions is punishable as a misdemeanor. By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act’s purposes upon a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

This bill would declare that it furthers the purposes of the act.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 82015 of the Government Code is~~
2 ~~amended to read:~~

1 82015. (a) “Contribution” means a payment, a forgiveness of
2 a loan, a payment of a loan by a third party, or an enforceable
3 promise to make a payment, except to the extent that full and
4 adequate consideration is received, unless it is clear from the
5 surrounding circumstances that it is not made for political purposes.

6 (b) (1) A payment made at the behest of a committee as defined
7 in subdivision (a) of Section 82013 is a contribution to the
8 committee, unless full and adequate consideration is received from
9 the committee for making the payment.

10 (2) A payment made at the behest of a candidate is a contribution
11 to the candidate, unless the criteria in either subparagraph (A) or
12 (B) are satisfied:

13 (A) Full and adequate consideration is received from the
14 candidate.

15 (B) It is clear from the surrounding circumstances that the
16 payment was made for purposes unrelated to his or her candidacy
17 for elective office. The following types of payments are presumed
18 to be for purposes unrelated to a candidate’s candidacy for elective
19 office:

20 (i) A payment made principally for personal purposes, in which
21 case it may be considered a gift under the provisions of Section
22 82028. Payments that are otherwise subject to the limits of Section
23 86203 are presumed to be principally for personal purposes.

24 (ii) A payment made by a state, local, or federal governmental
25 agency or by a nonprofit organization that is exempt from taxation
26 under Section 501(c)(3) of the Internal Revenue Code.

27 (iii) A payment not covered by clause (i), made principally for
28 legislative, governmental, or charitable purposes, in which case it
29 is neither a gift nor a contribution. However, payments of this type
30 that are made at the behest of a candidate who is an elected officer
31 shall be reported within 30 days following the date on which the
32 payment or payments equal or exceed five thousand dollars
33 (\$5,000) in the aggregate from the same source in the same
34 calendar year in which they are made. The report shall be filed by
35 the elected officer with the elected officer’s agency and shall be
36 a public record subject to inspection and copying pursuant to
37 Section 81008. The report shall contain the following information:
38 name of payor, address of payor, amount of the payment, date or
39 dates the payment or payments were made, the name and address
40 of the payee, a brief description of the goods or services provided

1 or purchased, if any, and a description of the specific purpose or
2 event for which the payment or payments were made. Once the
3 five-thousand-dollar (\$5,000) aggregate threshold from a single
4 source has been reached for a calendar year, all payments for the
5 calendar year made by that source shall be disclosed within 30
6 days after the date the threshold was reached or the payment was
7 made, whichever occurs later. Within 30 days after receipt of the
8 report, state agencies shall forward a copy of these reports to the
9 Commission, and local agencies shall forward a copy of these
10 reports to the officer with whom elected officers of that agency
11 file their campaign statements.

12 (C) For purposes of subparagraph (B), a payment is made for
13 purposes related to a candidate's candidacy for elective office if
14 all or a portion of the payment is used for election-related activities.
15 For purposes of this subparagraph, "election-related activities"
16 shall include, but are not limited to, the following:

17 (i) Communications that contain express advocacy of the
18 nomination or election of the candidate or the defeat of his or her
19 opponent.

20 (ii) Communications that contain reference to the candidate's
21 candidacy for elective office, the candidate's election campaign,
22 or the candidate's or his or her opponent's qualifications for
23 elective office.

24 (iii) Solicitation of contributions to the candidate or to third
25 persons for use in support of the candidate or in opposition to his
26 or her opponent.

27 (iv) Arranging, coordinating, developing, writing, distributing,
28 preparing, or planning of any communication or activity described
29 in clause (i), (ii), or (iii).

30 (v) Recruiting or coordinating campaign activities of campaign
31 volunteers on behalf of the candidate.

32 (vi) Preparing campaign budgets.

33 (vii) Preparing campaign finance disclosure statements.

34 (viii) Communications directed to voters or potential voters as
35 part of activities encouraging or assisting persons to vote if the
36 communication contains express advocacy of the nomination or
37 election of the candidate or the defeat of his or her opponent.

38 (D) A contribution made at the behest of a candidate for a
39 different candidate or to a committee not controlled by the
40 behesting candidate is not a contribution to the behesting candidate.

1 ~~(3) A payment made at the behest of a member of the Public~~
2 ~~Utilities Commission, made principally for legislative,~~
3 ~~governmental, or charitable purposes, is not a contribution.~~
4 ~~However, payments of this type shall be reported within 30 days~~
5 ~~following the date on which the payment or payments equal or~~
6 ~~exceed five thousand dollars (\$5,000) in the aggregate from the~~
7 ~~same source in the same calendar year in which they are made.~~
8 ~~The report shall be filed by the member with the Public Utilities~~
9 ~~Commission and shall be a public record subject to inspection and~~
10 ~~copying pursuant to Section 81008. The report shall contain the~~
11 ~~following information: name of payor, address of payor, amount~~
12 ~~of the payment, date or dates the payment or payments were made,~~
13 ~~the name and address of the payee, a brief description of the goods~~
14 ~~or services provided or purchased, if any, and a description of the~~
15 ~~specific purpose or event for which the payment or payments were~~
16 ~~made. Once the five-thousand-dollar (\$5,000) aggregate threshold~~
17 ~~from a single source has been reached for a calendar year, all~~
18 ~~payments for the calendar year made by that source shall be~~
19 ~~disclosed within 30 days after the date the threshold was reached~~
20 ~~or the payment was made, whichever occurs later. Within 30 days~~
21 ~~after receipt of the report, the Public Utilities Commission shall~~
22 ~~forward a copy of these reports to the Fair Political Practices~~
23 ~~Commission.~~

24 ~~(e) "Contribution" includes the purchase of tickets for events~~
25 ~~such as dinners, luncheons, rallies, and similar fundraising events;~~
26 ~~the candidate's own money or property used on behalf of his or~~
27 ~~her candidacy other than personal funds of the candidate used to~~
28 ~~pay either a filing fee for a declaration of candidacy or a candidate~~
29 ~~statement prepared pursuant to Section 13307 of the Elections~~
30 ~~Code; the granting of discounts or rebates not extended to the~~
31 ~~public generally or the granting of discounts or rebates by television~~
32 ~~and radio stations and newspapers not extended on an equal basis~~
33 ~~to all candidates for the same office; the payment of compensation~~
34 ~~by any person for the personal services or expenses of any other~~
35 ~~person if the services are rendered or expenses incurred on behalf~~
36 ~~of a candidate or committee without payment of full and adequate~~
37 ~~consideration.~~

38 ~~(d) "Contribution" further includes any transfer of anything of~~
39 ~~value received by a committee from another committee, unless~~
40 ~~full and adequate consideration is received.~~

1 ~~(e) “Contribution” does not include amounts received pursuant~~
2 ~~to an enforceable promise to the extent those amounts have been~~
3 ~~previously reported as a contribution. However, the fact that those~~
4 ~~amounts have been received shall be indicated in the appropriate~~
5 ~~campaign statement.~~

6 ~~(f) “Contribution” does not include a payment made by an~~
7 ~~occupant of a home or an office for costs related to any meeting~~
8 ~~or fundraising event held in the occupant’s home or office if the~~
9 ~~costs for the meeting or fundraising event are five hundred dollars~~
10 ~~(\$500) or less and the occupant is not a lobbyist, lobbying firm,~~
11 ~~or lobbyist employer.~~

12 ~~(g) Notwithstanding the foregoing definition of “contribution,”~~
13 ~~the term does not include volunteer personal services or payments~~
14 ~~made by any individual for his or her own travel expenses if the~~
15 ~~payments are made voluntarily without any understanding or~~
16 ~~agreement that they shall be, directly or indirectly, repaid to him~~
17 ~~or her.~~

18 ~~(h) “Contribution” further includes the payment of public~~
19 ~~moneys by a state or local governmental agency for a~~
20 ~~communication to the public that satisfies both of the following:~~

21 ~~(1) The communication expressly advocates the election or~~
22 ~~defeat of a clearly identified candidate or the qualification, passage,~~
23 ~~or defeat of a clearly identified measure, or, taken as a whole and~~
24 ~~in context, unambiguously urges a particular result in an election.~~

25 ~~(2) The communication is made at the behest of the affected~~
26 ~~candidate or committee.~~

27 ~~SECTION 1. Section 82015 of the Government Code is~~
28 ~~amended to read:~~

29 82015. (a) “Contribution” means a payment, a forgiveness of
30 a loan, a payment of a loan by a third party, or an enforceable
31 promise to make a payment except to the extent that full and
32 adequate consideration is received, unless it is clear from the
33 surrounding circumstances that it is not made for political purposes.

34 (b) (1) A payment made at the behest of a committee, as defined
35 in subdivision (a) of Section 82013, is a contribution to the
36 committee unless full and adequate consideration is received from
37 the committee for making the payment.

38 (2) A payment made at the behest of a candidate is a contribution
39 to the candidate unless the criteria in either subparagraph (A) or
40 (B) are satisfied:

1 (A) Full and adequate consideration is received from the
2 candidate.

3 (B) It is clear from the surrounding circumstances that the
4 payment was made for purposes unrelated to his or her candidacy
5 for elective office. The following types of payments are presumed
6 to be for purposes unrelated to a candidate's candidacy for elective
7 office:

8 (i) A payment made principally for personal purposes, in which
9 case it may be considered a gift under the provisions of Section
10 82028. Payments that are otherwise subject to the limits of Section
11 86203 are presumed to be principally for personal purposes.

12 (ii) A payment made by a state, local, or federal governmental
13 agency or by a nonprofit organization that is exempt from taxation
14 under Section 501(c)(3) of the Internal Revenue Code.

15 (iii) A payment not covered by clause (i), made principally for
16 legislative, governmental, or charitable purposes, in which case it
17 is neither a gift nor a contribution. However, payments of this type
18 that are made at the behest of a candidate who is an elected officer
19 shall be reported within 30 days following the date on which the
20 payment or payments equal or exceed five thousand dollars
21 (\$5,000) in the aggregate from the same source in the same
22 calendar year in which they are made. The report shall be filed by
23 the elected officer with the elected officer's agency and shall be
24 a public record subject to inspection and copying pursuant to
25 subdivision (a) of Section 81008. The report shall contain the
26 following information: name of payor, address of payor, amount
27 of the payment, date or dates the payment or payments were made,
28 the name and address of the payee, a brief description of the goods
29 or services provided or purchased, if any, and a description of the
30 specific purpose or event for which the payment or payments were
31 made. Once the five-thousand-dollar (\$5,000) aggregate threshold
32 from a single source has been reached for a calendar year, all
33 payments for the calendar year made by that source ~~must~~ shall be
34 disclosed within 30 days after the date the threshold was reached
35 or the payment was made, whichever occurs later. Within 30 days
36 after receipt of the report, state agencies shall forward a copy of
37 these reports to the ~~Fair Political Practices~~ Commission, and local
38 agencies shall forward a copy of these reports to the officer with
39 whom elected officers of that agency file their campaign
40 statements.

1 (C) For purposes of subparagraph (B), a payment is made for
2 purposes related to a candidate's candidacy for elective office if
3 all or a portion of the payment is used for election-related activities.
4 For purposes of this subparagraph, "election-related activities"
5 shall include, but are not limited to, the following:

6 (i) Communications that contain express advocacy of the
7 nomination or election of the candidate or the defeat of his or her
8 opponent.

9 (ii) Communications that contain reference to the candidate's
10 candidacy for elective office, the candidate's election campaign,
11 or the candidate's or his or her opponent's qualifications for
12 elective office.

13 (iii) Solicitation of contributions to the candidate or to third
14 persons for use in support of the candidate or in opposition to his
15 or her opponent.

16 (iv) Arranging, coordinating, developing, writing, distributing,
17 preparing, or planning of any communication or activity described
18 in clause (i), (ii), or (iii).

19 (v) Recruiting or coordinating campaign activities of campaign
20 volunteers on behalf of the candidate.

21 (vi) Preparing campaign budgets.

22 (vii) Preparing campaign finance disclosure statements.

23 (viii) Communications directed to voters or potential voters as
24 part of activities encouraging or assisting persons to vote if the
25 communication contains express advocacy of the nomination or
26 election of the candidate or the defeat of his or her opponent.

27 (D) A contribution made at the behest of a candidate for a
28 different candidate or to a committee not controlled by the
29 behesting candidate is not a contribution to the behesting candidate.

30 (3) A payment made at the behest of a member of the Public
31 Utilities Commission, made principally for legislative,
32 governmental, or charitable purposes, is not a contribution.
33 However, payments of this type shall be reported within 30 days
34 following the date on which the payment or payments equal or
35 exceed five thousand dollars (\$5,000) in the aggregate from the
36 same source in the same calendar year in which they are made.
37 The report shall be filed by the member with the Public Utilities
38 Commission and shall be a public record subject to inspection and
39 copying pursuant to subdivision (a) of Section 81008. The report
40 shall contain the following information: name of payor, address

1 of payor, amount of the payment, date or dates the payment or
2 payments were made, the name and address of the payee, a brief
3 description of the goods or services provided or purchased, if any,
4 and a description of the specific purpose or event for which the
5 payment or payments were made. Once the five-thousand-dollar
6 (\$5,000) aggregate threshold from a single source has been reached
7 for a calendar year, all payments for the calendar year made by
8 that source ~~must~~ *shall* be disclosed within 30 days after the date
9 the threshold was reached or the payment was made, whichever
10 occurs later. Within 30 days after receipt of the report, the Public
11 Utilities Commission shall forward a copy of these reports to the
12 Fair Political Practices Commission.

13 (c) "Contribution" includes the purchase of tickets for events
14 such as dinners, luncheons, rallies, and similar fundraising events;
15 the candidate's own money or property used on behalf of his or
16 her candidacy, other than personal funds of the candidate used to
17 pay either a filing fee for a declaration of candidacy or a candidate
18 statement prepared pursuant to Section 13307 of the Elections
19 Code; the granting of discounts or rebates not extended to the
20 public generally or the granting of discounts or rebates by television
21 and radio stations and newspapers not extended on an equal basis
22 to all candidates for the same office; the payment of compensation
23 by any person for the personal services or expenses of any other
24 person if the services are rendered or expenses incurred on behalf
25 of a candidate or committee without payment of full and adequate
26 consideration.

27 (d) "Contribution" further includes any transfer of anything of
28 value received by a committee from another committee, unless
29 full and adequate consideration is received.

30 (e) "Contribution" does not include amounts received pursuant
31 to an enforceable promise to the extent those amounts have been
32 previously reported as a contribution. However, the fact that those
33 amounts have been received shall be indicated in the appropriate
34 campaign statement.

35 (f) ~~"Contribution"~~ *(1) Except as provided in paragraph (2) or*
36 *(3), "contribution"* does not include a payment made by an
37 occupant of a home or office for costs related to any meeting or
38 fundraising event held in the occupant's home or office if the costs
39 for the meeting or fundraising event are five hundred dollars (\$500)
40 or less.

(2) “Contribution” includes a payment made by a lobbyist or a cohabitant of a lobbyist for costs related to a fundraising event held at the home of the lobbyist, including the value of the use of the home as a fundraising event venue. A payment described in this paragraph shall be attributable to the lobbyist for purposes of Section 85702.

(3) “Contribution” includes a payment made by a lobbying firm for costs related to a fundraising event held at the office of the lobbying firm, including the value of the use of the office as a fundraising event venue.

(g) Notwithstanding the foregoing definition of “contribution,” the term does not include volunteer personal services or payments made by any individual for his or her own travel expenses if the payments are made voluntarily without any understanding or agreement that they shall be, directly or indirectly, repaid to him or her.

(h) “Contribution” further includes the payment of public moneys by a state or local governmental agency for a communication to the public that satisfies both of the following:

(1) The communication expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage, or defeat of a clearly identified measure, or, taken as a whole and in context, unambiguously urges a particular result in an election.

(2) The communication is made at the behest of the affected candidate or committee.

(i) “Contribution” further includes a payment made by a person to a multipurpose organization as defined and described in Section 84222.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 3. The Legislature finds and declares that this bill furthers the purposes of the Political Reform Act of 1974 within the

1 meaning of subdivision (a) of Section 81012 of the Government
2 Code.

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